

# **Meeting Minutes September 15, 2005**

## **Town of Los Altos Hills City Council Regular Meeting**

Thursday, September 15, 2005 6:00 P.M.

Town Hall Council Chambers, 26379 Fremont Road

### **1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

Mayor Kerr called the City Council Regular Meeting to order at 6:04 p.m. in the Council Chambers at Town Hall.

Present: Mayor Breene Kerr, Mayor Pro Tem Dean Warshawsky, Councilmember Craig A. T. Jones, Councilmember Jean Mordo and Councilmember Mike O'Malley

Absent: None

Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas, Planning Director Carl Cahill, Administrative Services Director Sarah Ragsdale, Director of Public Works/City Engineer Henry Louie, Project Planner Leslie Hopper and City Clerk Karen Jost

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to limit the length of time for public comments to three minutes.

Mayor Kerr announced that he would reorder the agenda to accommodate the presentation by the EIC Committee. It would be heard at 6:15 p.m.

### **2. APPOINTMENTS AND PRESENTATIONS**

#### **2.1 Presentation of Proposed Energy Efficiency Ordinance – Environmental Initiatives Committee**

Peter Evans, Environmental Initiatives Committee addressed Council. He acknowledged the hard work and commitment of his committee to their charter and recognized the members present in the audience. He noted that the Town was reaping the benefit of the wealth of expertise of the committee's membership on the issue of energy conservation.

Evans presented the PowerPoint "Energy Efficiency Ordinance" prepared by the Standing Environmental Initiatives Committee. Highlights of the presentation included: Lessons Learned from Town Hall Project; Conservation Goals Already Adopted by the Town and Actions Taken Already; Facts to Better Understand Your Home's Energy Use;

How Energy is Currently Regulated; Committee Proposals; Is 25% Better Efficiency Realistic?; and Next Steps.

Evans reviewed the Committee's proposal for the Town's Energy Efficiency Ordinance. They included: 1) a site-specific simulation of building energy consumption that would include lighting, appliances, heating, water heating, air conditioners and pools; 2) 25% greater energy efficiency than basic State requirements (Title 24) for all new homes over 6,000 square feet (total floor area including garage and basement); 3) on site renewable generation photo voltaics would count toward the required efficiency gains; and, 4) solar heating or thermal cover on pools and 500 square feet of heating-integrated hardscape (solar collector that surrounds the pool) excluded from MDA (maximum development area) calculations. Pool pumping requirements were still under development.

Evans summarized the results and estimated incremental cost of measures to achieve the efficiency improvements of simulations that had been performed by a consultant for the committee on different home scenarios. The simulations were performed to see if a 25% requirement for better efficiency was a realistic standard.

Evans concluded his presentation by reiterating that if energy is not measured it cannot be managed and information leads to energy efficiency. He noted that the Committee was attempting to set a benchmark for energy efficiency for homes similar to miles per gallon for cars. If energy consumption was reduced, residents would benefit by saving money.

Council briefly discussed the presentation. Councilmember Mordo suggested he would like the Committee to investigate what other communities in California are moving forward with similar energy ordinances other than Marin. Mayor Kerr explained that Marin's ordinance was used as a template to garner an understanding of the procedure and process in establishing an energy ordinance. He noted that a requirement of adopting such an ordinance was approval by the California Energy Commission and a nexus between the requirement and a savings-economic benefit to the consumer. Councilmember O'Malley noted that he would like to have additional data from PG&E regarding the average energy usage of Town residents. Evans explained that the Committee had requested the information but to date, PG&E had not replied. Councilmember Warshawsky questioned why the Committee was leaning towards mandating energy efficiency rather than offering incentives. Evans believed that the cost savings the resident would achieve was an incentive. Mayor Kerr noted that a key component of the ordinance was informing and educating residents and architects on energy efficiency measures. He believed that it would be a value to home buyers. Kerr explained that PG&E's Energy Star Rating program that required a 15% energy improvement over Title 24 requirements for a home to be certified might be a satisfactory option. He suggested that this could be a requirement for Fast Track approval of a new residence.

Council thanked Peter Evans and the Committee for the presentation.

## OPENED PUBLIC COMMENT

Milton Chang, Scarff Way, applauded the volunteer membership of the Committee for the service they were performing for the Town. He expressed his concern that the Council was moving beyond their purview in telling the residents how much energy they can use.

Dot Schreiner, Saddle Mountain, questioned if the ordinance would apply to only new homes or also be a requirement for remodeled homes.

Ray Collins, Elena Road, stated that she supported the proposed energy efficiency ordinance. She offered that the incentive behind the requirement was that the cost could be recaptured and believed the cost of the requirement was appropriate. She agreed with the ordinance philosophically because it addressed a very serious potential California energy crisis. Collins thanked the Council for their post card mailing to advise residents of tonight's presentation.

Allan Epstein, Ravensbury Avenue, noted that his residence had a photo voltaic system and geo thermal radiant heating system. He was opposed to the proposed ordinance and suggested that education would be as effective as a mandatory regulation. He suggested that the proposal was misguided because it did not address large energy consumption items like swimming pools and air conditioners. Epstein added that he believed the ordinance was an intrusion into personal lives.

Eric Ramberg, Sherlock Road, questioned the number of homes built without air conditioning. He suggested that the Committee develop an energy model that would be commiserate with the type of homes being built in Los Altos Hills. Ramberg concurred with the gathering of data and education but he would like the ordinance to include pools. He suggested that more time should be spent on defining the problem than setting a solution.

Resident, St. Francis, commented that she was of the opinion that the ordinance was "the right thing to do".

Jitze Couperus, Page Mill Road, suggested that this was an appropriate ordinance and that it would be beneficial to have homes with energy ratings.

Ray Collins, Elena Road, offered that the 6,000 square foot threshold for the ordinance had raised concerns within the community that this was a method for limiting home size. She wanted it to be clear that this was not the intention of the ordinance.

John Harpotlian, Anacapa Drive, EIC member, noted that government in a free society sets limits i.e. Title 24, low flush toilet requirements and unleaded fuels. The Committee was simply attempting to minimally improve the energy requirements.

Resident, Summitwood Road, offered that the tankless water heaters were not very good and that water from your water heater can be a good source of water during an emergency. He expressed his concern that the ordinance would dictate what appliances could be used in a home.

Peter Evans explained that the proposed ordinance requirements were based on Title 24 requirements. It would not define what appliances were required; the ratings are for informational purposes only.

Phyllis Carmichael, Baleri Ranch Road, explained that the 6,000 square foot home being referenced for discussion was in reality a 4,800 foot home. In her opinion, this was not a large home but a standard size home, so the ordinance would impact all new construction. She noted that the costs per square foot that were being discussed were in addition to all of the other building costs and fees. Carmichael believed the proposal was moving forward too quickly and more information was needed. She suggested that Council wait to see what the new Title 24 requirements were.

#### CLOSED PUBLIC COMMENT

Council discussion ensued. Council noted that this was their first opportunity to hear the Committee's proposal and they would appreciate more time to assimilate the information presented. It was suggested that more information be gathered on the energy use of the Town and the practical application of the proposed requirements. It was offered that the size of the home where the ordinance was applicable be reviewed and possibly adapted to 6,000 square feet of living space or to all new homes regardless of size. It was suggested that the requirement of 25% energy improvement be reviewed and that 15% also be considered. Councilmember Jones suggested that he would be amenable to a trial period of one year for the ordinance where compliance was voluntary and after it was deemed practical, the ordinance could be mandatory. He would require the test simulation measure for 25% for new residences. Councilmember Warshawsky thanked the Committee for their presentation and residents for their comments and noted that he would need more information on the subject. He concurred that energy conservation was an important issue but questioned if the requirements should be mandatory or offer incentives. Mayor Kerr suggested that the requirements might be mandatory for Fast Track approvals only and that new homes still be required to run the simulations. This would permit time to evaluate the practicality of the ordinance and to make any necessary adjustments. Councilmember O'Malley commented that there was a nexus for adopting this type of ordinance. He suggested that the applicable costs were fair and reasonable. He noted that it was incumbent on local governments to set limits on natural resources. O'Malley could not support an ordinance that required photo voltaic but could support an energy efficiency ordinance. Councilmember Mordo commented that the Committee's suggestions were good intentions. He questioned the practicality and jurisdiction of the Town in regulating energy consumption. Mordo requested more information on other jurisdictions that had adopted similar ordinances. He suggested that Council should proceed carefully and reasonably.

Mayor Kerr suggested that 1) Fast Track applications be required to be Energy Star certified (PG&E program-15% improvement over Title 24); 2) all new construction be required to undertake the simulation test and reporting requirements as defined by the Committee; and, 3) direct the Committee to develop a more comprehensive ordinance that included swimming pools and pool pumps.

Following a brief discussion, Council directed the Environmental Initiatives Committee to further review their recommendations for the draft ordinance including: should the energy efficiency requirements be applicable to all new home construction or residences of 6,000 square feet and larger; should the standard be 15% vs. 25% improvement; and what requirements should be placed on swimming pools and pool pumps. Council also requested that the Committee gather more data on Town energy usage and provide them with a more detailed report. The recommendations would be agendized for the October 20, 2005 City Council meeting.

### 3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported that the Planning Commission had not met since the last Council meeting. He advised Council that the Alon project had begun construction and that to date it was consistent with the permit.

### 4. CONSENT CALENDAR

Items Removed: 4.5 (O'Malley) 4.6 (Jones/Ragsdale) 4.8 (Warshawsky)

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by O'Malley and passed unanimously to approve the remainder of the Consent Calendar with Mayor Kerr recusing himself on disbursements made to TBI and identified in consent calendar item 4.2, specifically:

- 4.1 Approval of Minutes: Regular City Special Meeting September 1, 2005
- 4.2 Review of Disbursements: 08/25/2005 – 09/06/2005 \$237,211.53
- 4.3 Approval of Ordinance No. 440 Adopting the Revised Sewer Use Code
- 4.4 Award of Contract: Engineering Design Service for Robleda Pathway Project  
Reso # 89-05
- 4.7 Proposed Position Description for Office Specialist II and Authorization to Make Appointment
- 4.9 Update/Transfer of Los Altos/Los Altos Hills Little League Field  
Maintenance Contract-Colony Landscape & Maintenance, Inc.
- 4.10 Approval of Proposal for Audio Visual Services

Items Removed:

#### 4.5 Annual Approval of Investment Policy

Councilmember O'Malley requested amplification on the revisions to the Town's Investment Policy. Councilmember Mordo explained that the policy had been streamlined to reduce the range of allowed financial investment vehicles. It was a more practical approach that would permit safe, risk free investments; i.e. certificates of deposit and treasury notes. Councilmember Jones added that the overall thrust of the investment policy was a higher net return on investments. The Finance and Investment

Committee had conducted a comprehensive review and revision of the policy and the policy had been simplified to reduce fees and keep the overhead investment costs to a minimum.

**MOTION SECONDED AND CARRIED:** Moved by O'Malley, seconded by Mordo and passed unanimously to approve the Investment Policy as presented.

#### 4.6 Approval of Request for Proposals for Investment Advisory Services

Councilmember Mordo explained that the Request for Proposal in the meeting packet had been modified by the Finance and Investment Committee at their recent meeting. The scope of the proposal had been narrowed and the revised RFP was directed towards a financial advisor to execute the transactions.

**MOTION SECONDED AND CARRIED:** Moved by Mordo, seconded by O'Malley and passed unanimously to approve the Request for Proposals for Investment Advisor Services as amended by the Finance and Investment Committee.

#### 4.8 Grant of Open Space Easements: Lands of Bhargava; 11860 Francemont Drive Reso #90-05

Councilmember Warshawsky noted that he had requested separate consideration of this item to call attention to the dedication of the easement on a thirty (30) percent slope.

**MOTION SECONDED AND CARRIED:** Moved by Warshawsky, seconded by Jones and passed unanimously to approve the grant of Open Space Easements-Lands of Bhargava, 11860 Francemont Drive Resolution #90-05.

### 5. UNFINISHED BUSINESS

#### 5.1 Town Goals

##### 5.1.1 Implementation of Strategic Conservation Goals

Item discussed as agenda item 2.1.

##### 5.1.2 Bringing Public Education Back to the Hills

Item discussed as agenda item 7.1

#### 5.2 Underground Project Status Report

Mayor Pro Tem Warshawsky reported that the Committee had met with representatives from San Jose to discuss their Rule 20A programs. He had found the meeting to be very informative. The scheduling date for the Town's project was still "to be determined" by PG&E.

#### 5.3 Update on General Plan Review

Councilmember O'Malley reported that the Committee had a successful initial meeting. They were reviewing the materials provided by staff and would meet again in early

October. O'Malley expected the Committee to present their initial findings in early 2006.

#### 5.4 Consideration of Revised Plan and Cost Estimate for Additional Landscaping at Town Hall

Mayor Kerr offered that the initial phase of landscaping for the new Town Hall had been completed. He explained that the request for additional landscaping before Council would not impede the Santa Clara Valley Water District's drought tolerant demonstration garden next to the Heritage House.

Tony Vierra, TBI Construction Management, New Town Hall project manager, explained that the request before Council was for additional landscaping in the front of Town Hall, additional low wattage landscape lighting and ground cover in the solar orchard.

City Manager Maureen Cassingham noted the use of the front of Town Hall by students being bussed to school and suggested that the plantings be durable.

Councilmember Jones expressed his concern with the lighting on the exterior of the facility, noting that it was very dark for anyone departing the building in the evening. He felt it was important for a safe work environment and for volunteers leaving a night meeting to have appropriate lighting from the building to the parking lot. Following discussion, it was determined that issues with outside lighting would be forwarded to the City Manager.

**MOTION SECONDED AND CARRIED:** Moved by Jones, seconded by Mordo and passed unanimously to approve Resolution No. 91-05 approving the cost of additional landscaping at Town Hall (\$23, 458). Motion also included approval of the additional lighting on the Town Path (\$4,675); and approval of the landscape and irrigation around the solar panels (\$15,800).

**MOTION SECONDED AND CARRIED:** Moved by Mordo, seconded by O'Malley and passed unanimously to approve amendment #2 additional services – landscaping additions to the TBI Construction Management Services for a total of \$2,600 (Mayor Kerr recused himself from consideration of the item and vote).

#### 5.5 Consideration of Proposed Revisions to Town Policies on Wireless Communications Facilities

City Manager Maureen Cassingham introduced this item to Council. Council had before them proposed revisions to Town policies on Wireless Communications. Cassingham explained that by revising the policy to give the Planning Director more latitude it would potentially accelerate the interest of cellular providers. If adopted, the new policy would authorize the Planning Director to negotiate fee waivers, streamline the permitting process and encourage the co-location of different communication vendors where possible. Cassingham noted that the suggestions for the revisions had been a result of meetings to investigate options for providing better cellular coverage to Town residents with Mayor Pro Tem Warshawsky and Councilmember Mordo.

The City Manager commented that additionally, staff was requesting consideration of a revision that was not included in the staff report to give the Planning Director administrative authority to approve temporary cell antenna facilities. They would be located and used similarly to story poles that are used during the planning review process. The temporary towers are referred to as “cows” or “cells on wheels”.

Councilmember Mordo stated that he was encouraged by the revisions to the policy that would enable the City Manager and Planning Director to be more proactive and potentially attract vendors. Mayor Pro Tem Warshawsky concurred and added that he was very supportive of the “cows” and authorizing the Planning Director to have the administrative authority to approve their placement. The cows could demonstrate the improved cellular service and potentially provide a constituency for placement of the tower.

**MOTION SECONDED AND CARRIED:** Moved by Warshawsky, seconded by Mordo and passed unanimously to approve the proposed revisions with the addition of #10. The Planning Director is authorized to administratively approve the location of a mobile temporary cellular tower on wheels or “cow”.

## **6. NEW BUSINESS**

None

## **7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES**

### **7.1 Consideration of Proposed Mailer – Public Education Committee**

Duncan MacMillan, Public Education Committee Chair addressed Council. The Public Education Committee was seeking approval of a town wide mailing to advise residents of the future scheduled public meeting on education. He requested that it be similar to the mailing sent out by the Environmental Initiatives Committee. It was noted that the cost of the EIC mailing was approximately \$4,000.

Council discussion ensued. Council concurred that it was appropriate to have a separate mailing to notify the public of a significant hearing. Councilmember Mordo noted that it was important to know what the parameters of the meeting were before the mailing was sent out to residents.

**MOTION SECONDED AND CARRIED:** Moved by Mordo, seconded by Jones and passed unanimously to authorize funds in the not-to-exceed amount of \$4,000 for the Public Education Committee mailer contingent on the future scheduling of the meeting to discuss public education.

## **COUNCIL REPORTS**

Jean Mordo reported that the Finance and Investment Committee had met. He added that he had received several requests from former Councilmember Toni Casey. She



suggested that the Newsletter be reviewed by all Councilmember's prior to publication and that the meeting agendas and minutes of all Committees be posted on the website.

City Clerk Jost explained that the meeting minutes were not available to the public until they were approved by the Committees and this could potentially prove to be a problem with the public's expectation of timeliness. Committee's generally met once a month. Meeting agendas were posted at Town Hall and the schedule for Committee meetings was available on the Town's Community Calendar on the Town's website.

Mayor Kerr reported that there was a consensus on the VTA to move forward with a sales tax measure on the November ballot. The County was considering a "piggy back" tax.

Mayor Pro Tem Warshawsky reported that the Emergency Communications Committee was anxious to move forward with the acquisition of the antenna tower to be located next to the Heritage House

Councilmember Jones reported that the Finance and Investment Committee would be making a presentation to the Council on Charter Cities at a future City Council meeting.

## 8. STAFF REPORTS

### 8.1 City Manager

City Manager Maureen Cassingham reported that staff was working on a facilities report for the Purissima Hills Water District building that would include a professional evaluation of the building. The report was expected to be forwarded to Council at the October 6, 2005 meeting. Cassingham added that \$100,000 had been included in the budget for repairs.

Cassingham noted that a PowerPoint presentation would be given to Council at their October 20, 2005 meeting regarding the steps to emergency response in Los Altos Hills during business and non business hours.

### 8.2 City Attorney

### 8.3 City Clerk

#### 8.3.1 Report on Council Correspondence

## 9. COUNCIL-INITIATED ITEMS

### 9.1 Consideration of Request from San Jose Mayor Ron Gonzales for Every City in the County to Participate in a Contingency Fund to Assist with Potential Gulf Coast Evacuees – Mayor Kerr

Mayor Kerr advised Council that he had attended a meeting in San Jose called by San Jose Mayor Ron Gonzales. The meeting was attended by Mayors of surrounding communities. Gonzales was requesting that cities consider budgeting 50 cents per resident (approximately \$4,000) in a contingency fund to support the local Red Cross if

evacuees of Hurricane Katrina are relocated to San Jose. There was a County plan in place to house them temporarily in San Jose State housing and then in to private homes.

Councilmember Jones noted that he had requested a similar item for Council consideration and given the extent of the disaster, he could support a donation of \$5,000.

City Manager Cassingham suggested that if Council were to make a donation, they could stipulate that the donation be applied to the Katrina relief and further designate that the donation, which was public funds, be directed to activities in the local area for the relief effort and hold the organization accountable for the expenditure of the donation.

Councilmember Mordo acknowledged that he served on the Board of the Palo Alto Area Red Cross. He explained that this was the Town's local chapter and it had been very involved in the Katrina relief and they had incurred many related expenses. He requested that the \$5,000 donation be made to the Palo Alto Area Chapter of the Red Cross.

Council discussion ensued. They concurred that a donation of \$5,000 would be made to the Town's local chapter of the Red Cross in Palo Alto and that as requested by Mayor Gonzales, \$5,000 would be set aside to donate to the County Chapter of the Red Cross to be funded at such time it was needed.

**MOTION SECONDED AND CARRIED:** Moved by Jones, seconded by O'Malley and passed unanimously to contribute \$5,000 to the Palo Alto Area Red Cross, specifically for local efforts for Katrina relief and to reserve \$5,000 as requested by San Jose Mayor Ron Gonzales for a donation to the County Red Cross to assist with the potential costs associated with the relocation of Katrina evacuees to Santa Clara County.

The City Manager was directed to specify that the donation to the Palo Alto Area Red Cross be spent locally for expenses incurred from the Katrina Hurricane relief efforts. Cassingham noted that she would request an accounting of the expenditures to ensure that the stipend remained in the local chapter.

## 9.2 Discussion of Westwind Barn Year 'Round Riding Program – Councilmember O'Malley

Councilmember O'Malley introduced this item. He had requested discussion of the Year Round Riding Program to afford him the opportunity to discuss proposed solutions to issues that have surfaced regarding the use of the Park Bond Funds to construct four stalls/paddocks at Westwind and use of the lower area for riding lessons offered by the Parks and Recreation Department. O'Malley noted that he was the Council liaison to the Parks and Recreation Committee. He hoped that his suggestions would allow the program and the Barn tenants to have a positive co-existence. He reviewed the current approach with Council and the potential problems with that approach and offered his proposed solutions that included: Town rental of two stalls as soon they became available at a current rate of \$500 per stall; Town would use the Park Bond Funds to build an arena for the exclusive use of the riding program; and, if demand increases, Town could rent additional stall space that would be paid by the class fees and the program could eventually be opened to adults. O'Malley noted that the Town received \$1700 per month rent for Westwind Barn. Per his proposal, Westwind Barn would have the benefit of not having additional horses and the

separate arena would alleviate the demand on the upper arena. If interest were to subside in the riding classes, the barn would retain the positive asset of the new arena. O'Malley concluded that the Parks and Recreation Committee had endorsed his proposal and he had reviewed his suggestions with the City Manager. He sought direction from Council.

Council discussed the proposal. They thanked O'Malley for his suggestions and concurred that it appeared to be a viable solution to the outstanding issues and supported further investigation of his proposal. Mayor Kerr requested the investigation of a covered ring be included in the review of the new O'Malley proposed arena. A status report on his proposal would be scheduled for a future City Council meeting.

Elaine Nelson, President, Supporters of Westwind Community Barn, addressed Council. She extended an invitation to Council to attend the group's major fundraiser Kentucky Derby 2006. Nelson added that the group had successfully met their previous fundraising targets and suggested that it would be beneficial to the group when seeking future donations to have an assessment of the funds needed for the barn restoration. She requested that Council provide a vision (comprehensive master plan) for Westwind Barn that included structural details.

Council discussed Nelson's request. City Manager Maureen Cassingham confirmed that the discussion of Nelson's request for the Town to hire a consultant to evaluate the structural integrity of the barn and develop recommendations would be scheduled for a future Council meeting. Councilmember Mordo suggested that Tony Mirenda, TBI, be included in discussion of the barn restoration and offered that it would be beneficial for the Town to develop a strategic master plan for the barn besides the structural evaluation.

9.3 Consideration of Request for Endorsement of Application for Appointment to the Los Altos Hills County Fire District Board of Commissioners – Councilmember Mordo

Following a brief discussion, Council offered that it would be appropriate for Council to remain neutral and endorse both candidates seeking appointment to the Fire District.

**MOTION SECONDED AND CARRIED:** Moved by Jones, seconded by O'Malley and passed unanimously for Council to endorse the candidacies of Dan Alexander and Jitze Couperus for appointment to the Los Altos Hills County Fire District Board of Commissioners.

10. PRESENTATIONS FROM THE FLOOR

Duffy Price, Anacapa Drive, thanked Director of Public Works/City Engineer Henry Louie for resolving the sewer gas issue on her street. This problem had been plaguing her neighborhood for some time, and she was grateful that it had been successfully addressed.

11. PUBLIC HEARINGS

11.1 Appeal of Approval of Site Development Permit and Exception to Grading Policy for Tennis Court, Tennis Pavilion , Utility Building

and Realigned Driveway; Lands of Evershine, 13310 La Paloma Road (#49-05-ZP-SD-GD);

Project Planner Leslie Hopper introduced this item to Council. She noted that the application had been reviewed and approved by the Planning Commission at their August 11, 2005 meeting. Subsequent to the meeting, Mayor Pro Tem Warshawsky appealed the approval of the project at the September 1, 2005 City Council meeting in order to allow the Pathways Committee an opportunity to review and clarify it's recommendation on the pathway location and requirements for it's construction.

Hopper reviewed the site plan with Council, identifying the existing and proposed path easements. She explained that the Pathways Committee had convened a special meeting and reviewed the project. Council had before them the Pathways Committee's recommendation for the project's condition of approval #23. Hopper summarized the conditions for Council that included: the location of the pathway easement on the east side of La Paloma Road between the drainage channel and the road pavement; the dedication of the path easement approximately in the location shown on the approved plans with the final location of the easement to be determined in the field by a representative of the Pathways Committee and the property owner; the pathway should be constructed by the owner; pathway should be accessible to pedestrians and equestrians; and some form of bridge/connection from La Paloma to the new path should be constructed by the owner.

Hopper noted that staff was recommending Council consider amending condition of approval #23 stipulated by the Planning Commission approval to incorporate the new recommendations of the Pathways Committee.

Planning Director Carl Cahill noted that he had received a phone request from the property owner's agent that condition #23 be deferred at this time and addressed when the owner applies for a future project. Cahill offered that staff was recommending that Council secure the easement now and require completion of the construction of the path prior to the final building inspection of the main residence or the accessory building. The actual documentation and dedication of the easement would return to Council at a future meeting for their approval.

Cahill reviewed the options before Council. He explained that they could approve the Pathways Committee amended condition of approval #23 and recommend to the applicant that at the time that they dedicate the new easement, they could proceed concurrently with the process for the vacation of the existing easement. Cahill noted that there would be time for the applicant to resolve his issues with the neighbors prior to the dedication.

## OPENED PUBLIC HEARING

Wayne Okubo, property owner's representative, explained that due to the recently expressed opposition to the new path alignment by several neighbors, he was requesting additional time to resolve the issue and would be interested in retaining the existing

easement. Okubo distributed the letter from the neighbor to Council. He explained that historically they have resolved all issues regarding the residence successfully with their neighbors.

Ginger Summit, Pathways Committee Chair, noted that she had walked the property with staff and the applicant's project manager. She believed the proposed pathway was "walkable" and there were no privacy issues because of the steepness of the property and potential conservation easement. Summit suggested that the language suggested by the Pathways Committee to amend Condition of Approval (COA) #23 was appropriate and a positive partnership between the Town and the property owners. She noted that it was critical for the Town to acquire the easement.

Jim Downey, Newbridge Road, explained that he had been a resident of the Town for thirty one years. He supported the conclusion of the Pathways Committee, however, he opposed the construction of the proposed sports complex before Council. He offered that this was inconsistent with the rural nature of the Town and expressed his concerns that it would have a negative impact on the residential neighborhood with noise and traffic issues.

#### CLOSED PUBLIC HEARING

Council reviewed the options with Mr. Okubo. He could request continuation of the item but this would continue the approval of his project and issuance of the project's building permit. Mr. Okubo stated that he had conferred with the owner and they wished to move forward.

Mayor Kerr requested clarification on the size and use of the generator to be housed in the utility building. Okubo noted that it was for emergency use only and he expected to test the generator approximately once a month.

City Attorney Steve Mattas offered that he had conferred with the Planning Director and had a suggested amendment for the Pathways Committee Recommended Condition #23 that would provide more latitude to the applicant to resolve his neighbors concerns. He recommended that in (b), first line, "along" be changed to "near" and similarly in (d) "along" as it appears in the first sentence be changed to "near".

Mr. Obuko, on behalf of the owners, agreed on the record to the modified condition of approval.

**MOTION SECONDED AND CARRIED:** Moved by Jones, seconded by Mordo and passed unanimously to uphold the Planning Commission's recommendation of approval with the addition of the Pathways Committee recommendation as modified.

9:10 p.m. City Council meeting recessed.

9:20 p.m. City Council meeting reconvened

11.2 Appeal of Site Development Permit for a New Agricultural Building; Lands of Hitz, 26026 Scarff Way (#80-05-ZP-SD)

Mayor Kerr reported that the applicant had requested a continuance of the public hearing to the October 20, 2005 City Council meeting.

#### OPENED PUBLIC HEARING

Nancy Ginzton, Natoma Road, Pathways Committee Vice Chair addressed Council. She explained that she had been charged with reviewing the history of the path. Ginzton summarized the information that she had garnered from Town records. Council had been provided a packet that included her findings.

Milton Chang, Scarff Way, explained that he believed there was an existing viable access to Esther Park from Kingsley. He offered that the proposed path would severally impact his home and privacy.

#### CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by O'Malley and passed unanimously to continue the public hearing of item 11.2 Appeal of Site Development Permit for a New Agricultural Building; Lands of Hitz, 26026 Scarff Way (#80-05-ZP-SD) to the October 20, 2005 City Council meeting.

#### 12. ADJOURNMENT

The meeting was adjourned by the consensus of the City Council at 10:50 p.m.

Respectfully submitted,

Karen Jost  
City Clerk

The minutes of the September 15, 2005 Regular City Council Meeting were approved as amended at the October 6, 2005 Regular City Council Meeting.